

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

PRONSCHINSKE TRUST DATED	)	
MARCH 21, 1995	)	
	)	
Plaintiff,	)	
	)	Case No. 16-cv-640
v.	)	
	)	
KAW VALLEY COMPANIES, INC.	)	
	)	
and	)	
	)	
KC PROPPANTS, LLC	)	
	)	
Defendants.	)	

**DEFENDANTS KAW VALLEY COMPANIES INC.'S AND KC PROPPANTS, LLC'S**  
**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants Kaw Valley Companies, Inc. (“Kaw Valley”) and KC Proppants, LLC (“KC Proppants”) (collectively, “Defendants”) file this Notice of Removal, removing a civil action captioned *Pronschinske Trust dated March 21, 1995 v. Kaw Valley Companies, Inc. and KC Proppants, LLC*, Case No. 2016CV000138, from the Circuit Court of Trempealeau County to the United States District Court for the Western District of Wisconsin. In support of this Notice of Removal, Defendants state as follows:

**I. BACKGROUND**

1. On or about August 26, 2016, Plaintiff Pronschinske Trust dated March 21, 1995 (“Pronschinske Trust”) filed this action against Kaw Valley and KC Proppants in the Circuit Court of Trempealeau, Wisconsin.

2. Plaintiff’s Complaint alleges that Defendants violated a Mining Lease Agreement (“Agreement”) dated June 18, 2012. *See* Plaintiff’s Complaint, ¶¶4-13 (attached as Exhibit A).

3. As a result of the alleged breach of the Agreement, Plaintiff claims damages of \$400,000. *Id.* at Prayer for Relief, ¶1.

4. This action could have been originally filed in this Court pursuant to 28 U.S.C. § 1332 because there is complete diversity between Plaintiff and Defendants and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

## **II. DIVERSITY JURISDICTION EXISTS**

5. Complete diversity of citizenship exists between the parties pursuant to 28 U.S.C. § 1332.

6. Pronschinske Trust is a trust created in the state of Wisconsin, with an address in Arcadia, Wisconsin. *Ex. A*, ¶1.

7. Kaw Valley is a Kansas corporation with its principal place of business in Kansas City, Kansas. *Id.*, ¶3. Pursuant to 28 U.S.C. § 1332(c)(1), Kaw Valley is a citizen of Kansas. Kaw Valley is not, and was not at the time of the filing, a citizen of the State of Wisconsin.

8. KC Proppants is a Kansas Corporation with its principal place of business in Kansas City, Kansas. *Id.*, ¶4. KC Proppants is not, and was not at the time of the filing, a citizen of the State of Wisconsin.

9. The allegations made on the face of the Complaint establish that the amount in controversy exceeds \$75,000. 28 U.S.C. 1446(c)(2).

10. Specifically, Plaintiff's prayer for relief requests, among other forms of recovery, "\$400,000 in contract damages plus prejudgment interest." *Ex. A*, Prayer for Relief, ¶1.

11. This case, therefore, is a case that may be removed to this Court by Defendants under the provisions of 28 U.S.C. § 1441(a). In other words, this is a civil action between citizens of different states in which Plaintiff seeks relief in excess of \$75,000.00 in value.

**IV. ALL OTHER REQUIREMENTS FOR REMOVAL ARE SATISFIED.**

12. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants are attached as Exhibit B.

13. Removal is timely under 28 U.S.C. § 1446(b), as KC Proppants accepted service effective September 2, 2016, and Kaw Valley was served on or about September 8, 2016. Defendants' Notice of Removal is filed within 30 days of the earliest of those dates.

14. Defendants have filed a Notice of Filing of Notice of Removal, along with a copy of the Notice of Removal, with the Clerk of the Circuit Court of Trempealeau, Wisconsin. Defendants will serve written notice of the same on counsel for Plaintiff, all in accordance with 28 U.S.C. § 1446(d).

15. Venue is proper in this district under 28 U.S.C. § 1441(a) because this district embraces the place in which the removed action has been pending, Trempealeau County, Wisconsin.

16. No additional consent to this removal is required.

17. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.00 and is between citizens of different states.

WHEREFORE, Defendants Kaw Valley Companies, Inc. and KC Proppants, LLC hereby gives notice that this action is removed from the Circuit Court of Trempealeau, Wisconsin, to the United States District Court for the Western District of Wisconsin and for any other relief the Court deems just and equitable.

Respectfully Submitted,

SHOOK, HARDY & BACON, LLP

By: /s/ Emily Sullivan  
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**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been forwarded to all counsel of record, by U.S. mail and e-mail, on this 19<sup>th</sup> day of September, 2016, as follows:

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